

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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M&T MORTGAGE CORPORATION,

Plaintiff,

- v -

LEO WHITE, et al.,

CV-04-4775 (NGG) (VVP)

Defendants/Third-Party Plaintiffs,

- v -

BETTER HOMES DEPOT, INC., et al.,

Third-Party Defendants.

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LINDA COUNCIL, et al.,

Plaintiffs,

- v -

CV-04-5620 (NGG) (VVP)

BETTER HOMES DEPOT, INC., et al.,

Defendants.

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The defendant Paragon Abstract, Inc.'s request to stay its deposition tomorrow is DENIED. Because of continuing difficulties in scheduling depositions in this matter, which involves numerous parties and their counsel, the court ordered all parties to appear for a scheduling conference on May 11, 2006. The court gave express instructions for the conference and fair warning of the consequences of a failure by any party to appear:

Counsel for parties who wish to participate in depositions must attend the conference, and shall arrive with a list of the names of all persons whose depositions they wish to take. The conference will be devoted to scheduling the specific dates for all witnesses who will be deposed. ***Parties that do not appear (by counsel) will forfeit the right to schedule any depositions, and will themselves be subject to deposition on the dates scheduled at the conference.***

Order, May 11, 2006, at p. 2 (emphasis added). Counsel for the defendant Paragon Abstract, Inc. voluntarily chose not to appear. They and their client must accept the consequences. To hold otherwise would render the efforts of all who attended the conference, as well as this court's order, meaningless.

The defendant Paragon Abstract, Inc. is hereby expressly warned that a failure to appear for the deposition (including a failure to provide a witness who is reasonably knowledgeable about the subject matter identified in the notice of deposition) will result in sanctions which at a minimum will include payment of two hours of attorneys' fees for all parties whose counsel attend the deposition and the costs of the court reporter.

SO ORDERED:

Viktor V. Pohorelsky
VIKTOR V. POHORELSKY
United States Magistrate Judge

Dated: Brooklyn, New York
May 30, 2006